THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.8403 of 2006

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the inaction on the part of the respondents in implementing Memo No.65827/Endts.(iii)/A2/2001-17 dated 19.7.2005 and the consequential proceedings of the second respondent dated 9.9.2005 as arbitrary, illegal and violative of Article 14 of the Constitution of India and consequently direct the respondents to absorb/regularize the services of the petitioners as Attender-cum-Night Watchman by implementing the above proceedings.

The facts are not much in dispute. It appears, second respondent-Tirumala Tirupati Devasthanam (TTD) requisitioned third respondent for selection and deployment of Home Guards. In pursuance of the said requisition, third respondent conducted interviews and all the petitioners were subjected to selection process and on their selection as Home Guards, they were sent for deputation to second respondent in the year 1990. Thus, the petitioners have been working as Home Guards since 1990 without any interruption. While that being so, first respondent vide Memo dated 19.7.2005 requested the Executive Officer, TTD to take necessary action to absorb and regularize the services of Home Guards in the posts of Attender-cum-Night Watchman in TTD as per rules, duly following rule of reservation. Accordingly, second respondent vide proceedings dated 9.9.2005 passed orders of absorption/appointment of petitioners as Attender-cum-Watchman. However, the said order was kept in abeyance vide proceedings dated 19.10.2005. Aggrieved by the same, the present writ petition is filed.

In the counter filed by second respondent-TTD, while admitting the case of the petitioners, it is stated that Devasthanam took initiation to

absorb the services of Home Guards by sending proposals to the Government. Though proceedings dated 9.9.2005 have been issued for absorption/appointment of Home Guards, in view of the orders of the Government, the said order dated 9.9.2005 was kept in abeyance. It is further stated that without the orders of the competent authority, petitioners are not entitled for regularization and absorption as Attender-cum-Watchman.

In the counter filed by the first respondent-Government, it is asserted that the Government vide G.O.Ms.No.178 Finance (SMPC) Department dated 15.7.2005 issued orders for conversion of 98 posts of Security Guards in TTD as Attender-cum-Night Watchman. While communicating the orders in the said G.O., a mistake had crept in and instead of issuing orders for conversion as Attender-cum-Night Watchman, it was mentioned as for absorption and regularization of services of Home Guards in the post of Attender-cum-Night Watchman. Subsequently, the said mistake was rectified and the second respondent-TTD was requested vide Govt. Memo dated 8.10.2005 to take action only for conversion. Further, it is stated that during the examination of proposal of Executive Officer, TTD to absorb the services of Home Guards as Attender-cum-Night Watchman, Government felt that Home Guards are also working in Police Department and if the services of the Home Guards working in TTD are regularized and absorbed, it would set a precedence for absorption of Home Guards working in the State and such action would create embarrassing situation to the Government. As there is a provision in TTD Service Rules under direct recruitment, Government have decided to get these 98 posts filled up by issuing a public notification duly following the prescribed procedure. Accordingly, orders were issued in G.O.Ms.No.422 Revenue (Endts.III) Department dated 4.4.2006 directing the Executive Officer to follow the procedure and

give weightage to the working Home Guards in the selections to be held.

The selection and appointment of petitioners as Home Guards in pursuance of a requisition made by TTD is not in dispute. It is also not in dispute that the petitioners were subjected to selection process for being appointed as Home Guards and they were sent for deputation to TTD and working continuously for the last 17 years. May be, Government had withdrawn the sanction earlier granted due to certain constraints as explained in its counter, but that does not solve the problem of the petitioners.

The learned Government Pleader strenuously contended that the Government had also directed the TTD to consider for regularizing the services of petitioners by following regular recruitment method. I am of the view that this procedure is to be followed in cases where the candidates were appointed without being subjected to selection process. But, in this case, petitioners were subjected to regular selection process and are fully qualified and eligible and have been working since 17 years without any blemish. The second respondent, instead of considering their cases, subjecting them to fresh selection process may not be proper.

Under those circumstances, the second respondent is directed to consider for regularization of the services of the petitioners as Attender-cum-Night Watchman and pass appropriate orders within a period of eight (8) weeks from the date of receipt of this order. Further, the first respondent is directed to grant approval for such appointments made by the second respondent, as one time measure, without raising any objection. This may be treated as a special case and shall not be treated as a precedent.

The writ petition is allowed to the extent indicated above. No order as to costs.

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C.V.RAMULU,
J

Date: 14.12.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

14.12.2007

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.8403 of 2006

Date: 14th December, 2007

Between:

B.Subramanyam & others.

.. Petitioners

And

Government of Andhra Pradesh, rep. by its
Principal Secretary, Revenue (Endt.) Department,
Secretariat, Hyderabad & others.

.. Respondents